

# **GUIDE TO THE EXECUTIVE BRANCH LOBBYIST REGISTRATION ACT**



Any person who is compensated to lobby an executive branch agency or the Constitution Revision Commission on behalf of another with respect to a decision in the area of policy or procurement must register as an executive branch lobbyist. Whether you need to register will depend on a number of factors, including the nature of your relationship with persons you represent and the types of activities you undertake. The purpose of this guide is to summarize major provisions of the law (Section 112.3215, Florida Statutes) and rules (Chapter 34-12, Florida Administrative Code).

The Florida Commission on Ethics has established the Executive Branch Lobbyist Registration office to administer the registration of persons who lobby an executive branch agency. You may request registration forms and other information on this program by contacting the office at the following address:

**LOBBYIST REGISTRATION  
111 W. Madison St., Rm. G-68  
Tallahassee, FL 32399-1425  
(850) 922-4990**

## **TERMS YOU NEED TO KNOW**

► **LOBBYIST** - A person who is employed and receives payment, or who contracts for economic consideration, for the purpose of lobbying or a person who is principally employed for governmental affairs by another person or governmental entity to lobby an agency on behalf of that person or governmental entity.

### **LOBBYIST DOES NOT MEAN:**

(1) An employee of a principal unless the employee is principally employed for governmental affairs. "Principally employed for governmental affairs" means that one of the principal or most significant responsibilities of the employee to the employer is overseeing the employer's various relationships with government or representing the employer in its contacts with government.

(2) An attorney or other person who represents a client in a judicial proceeding. (As a judicial proceeding does not commence until a complaint, indictment, information, or other pleading initiating the proceeding has been filed, one who lobbies an agency regarding a matter prior to its becoming a judicial proceeding may be a "lobbyist" if he or she is seeking to influence agency "policy" as defined below.)

- (3) An attorney or other person who represents a client in a formal administrative proceeding conducted pursuant to Chapter 120, F.S., or in any other FORMAL HEARING before an agency.
- (4) An officer or employee of a state agency or a legislative or judicial branch entity when lobbying in the normal course of his or her duties.
- (5) A person who is a confidential informant who is providing, or wishes to provide, confidential information to be used for law enforcement purposes.
- (6) A person who lobbies to procure a contract for goods or services costing less than \$15,000 ("Category One").

► **DESIGNATED LOBBYIST** - A lobbyist who has been appointed in writing by a principal as the designated lobbyist for that principal. The designated lobbyist submits the semiannual expenditure report summarizing his or her expenditures on behalf of that principal as well as the expenditures made directly by the principal. If a principal has one lobbyist registered, other lobbyists for that principal cannot register until the principal appoints one as the designated lobbyist.

► **AGENCY** - The Governor, Governor and Cabinet, or any department, division, bureau, board, commission, or authority of the executive branch, or the Constitution Revision Commission.

► **GOVERNMENTAL ENTITY** - An entity of government other than an "agency," including water management districts, regional planning councils, community college districts, counties, municipalities, special districts, and other political subdivisions of the State.

► **PERSON** - Individuals, children, firms, associations, joint adventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.

► **POLICY** – A plan or course of action which is applicable to a CLASS of persons, proceedings, or other matters, and which is designed to influence or determine the subsequent decisions and actions of an agency.

**POLICY DOES NOT MEAN** the adjudication or determination of any rights, duties, or obligations of a person made on a CASE-BY-CASE basis, such as would be involved in the issuance or denial of a license, permit, or certification or in a disciplinary action or investigation involving a person.

► **PROCUREMENT** - The purchase or acquisition of any property, interest in property, or services by an agency.

#### **EXAMPLES OF ACTIVITIES REQUIRING REGISTRATION:**

- Representing a client in communications with the Governor's Office with respect to legislative matters.
- Seeking to influence the content of an agency's request for proposals or specifications for the purchase of goods or services on behalf of another person, unless the category of purchase is LESS than \$15,000.

- Seeking to influence the priority given by an agency to the purchase of land or to a construction project on behalf of another person.
- Seeking to influence an agency's decision regarding a proposed rule in behalf of a client through communications with agency personnel outside of a publicly-noticed agency hearing or workshop.

### **EXAMPLES OF ACTIVITIES NOT CONSTITUTING LOBBYING:**

- A governmental officer or employee lobbying in behalf of the State agency which he or she serves.
- The mere submission of a bid in response to an agency's solicitation of bids or request for proposals.
- A request for information about an agency's procedures, forms, or budget on behalf of another.
- Lobbying an agency on behalf of oneself or in behalf of a business in which one has an ownership interest unless one is a "lobbyist" as defined above.
- Appearances before and communications with an agency initiated by its request for information or an appearance in response to an agency subpoena.
- Advice or services communicated to an agency arising out of an existing contractual obligation to render the advice or services provided.
- Communications with an agency by an expert consultant retained by a person to gather or analyze information required by the agency when made in connection with the person's application for a permit.

### **REGISTRATION AND CANCELLATION**

Registration is effective upon receipt in the Lobbyist Registration Office of the completed registration form (CE Form 20), the annual registration fee of \$25 per principal and a statement signed by the principal or principal's representative authorizing the lobbyist to register for that principal. Registration is required BEFORE lobbying an agency. A separate registration form must be completed for each principal represented. Any changes to information provided in the registration must be reported to the Lobbyist Registration Office in writing within 15 days. Forms may be obtained by contacting the Lobbyist Registration Office at (850)922-4990.

Upon termination of the lobbyist's representation of a principal, the lobbyist shall promptly send a written statement to the Lobbyist Registration Office canceling the registration for that principal. The Registration Office may remove the name of a lobbyist if the principal notifies the office that a person is no longer authorized to represent that principal.

### **REPORTS AND FINES**

Lobbyists and principals are required to report all lobbying expenditures by specified categories on a semiannual basis. Any principal employing two or more lobbyists must designate one lobbyist who must report all lobbying expenditures made by the lobbyist and made directly by the principal. CE Form 22 will be mailed to the lobbyists at the end of each six-month period and must include expenditures for the periods from January 1 through June 30 and July 1 through December 31. These reports are due no later than 5:00 P.M. of the 45th day after the end of each reporting period. The reports must be filed even if no expenditures were incurred. Each lobbyist and each principal must preserve all records and documents necessary to substantiate lobbying expenditures

for four years.

Lobbyists will be notified of their failure to file timely and that fines of \$50 per day per report for each late day will be assessed. They may receive a one-time fine waiver if all reports for which the lobbyist is responsible are filed within 30 days after transmittal of notice. Lobbyists will also be notified of payment due and will have up to 30 days after the notice is transmitted in which to pay the fine.

In addition to the Lobbyist Expenditure Report, a lobbyist is required to report, on a quarterly basis, gifts having a value between \$25 and \$100 made to persons required to file Form 1 or Form 6 financial disclosure and to State procurement employees if the lobbyist lobbies their agencies. (Lobbyists are prohibited from giving gifts valued at over \$100 to such persons.) The reports are due on the last day of each calendar quarter for gifts given in the preceding quarter and forms can be obtained from the Commission on Ethics and the Lobbyist Registration Office. When such a reportable gift is made, the donor must notify the intended recipient at the time the gift is given that the gift will be reported. Executive Branch Lobbyists file their quarterly gift reports with the Department of State, Division of Elections. After January 1, 2001, reports should be filed with the Commission on Ethics.

## **APPEALS**

A lobbyist wishing to appeal or dispute a fine imposed in accordance with this law must file a notice of appeal with the Commission on Ethics within 30 days after transmittal of the notice of payment due, setting out the unusual circumstances surrounding the failure to file by the due date. Failure to timely file a notice of appeal constitutes a waiver of any such entitlement. A lobbyist desiring a hearing before the Commission shall include a separate request for hearing in the notice of appeal.

## **ADVISORY OPINIONS**

The Commission on Ethics will issue a legally binding advisory opinion upon receiving a written request from a person in doubt about the applicability and interpretation of the law to him or herself in a particular context.

## **ENFORCEMENT**

The Commission on Ethics is required to investigate sworn complaints which sufficiently allege a violation of the executive branch lobbying law. Should it be determined that a violation occurred, the lobbyist may be reprimanded, censured, or prohibited from lobbying all agencies for a period not to exceed two years.